

## § 21.296

## 38 CFR Ch. I (7–1–14 Edition)

(2) The veteran's rehabilitation plan will be jeopardized by withholding services until a contract can be completed; and

(3) There are no known reasons to indicate that a contract may not be completed in a reasonable time.

(Authority: 38 U.S.C. 3115)

(g) *Training outside the United States.* VA may only use those facilities and courses outside the United States to provide training under Chapter 31 which meet requirements for approval under §§ 21.4250(c) and 21.4260. The conditions under which training outside the United States may be approved are contained in § 21.130.

(Authority: 38 U.S.C. 3114)

(h) *Flight training.* Flight training may only be provided in educational institutions which offer a standard college degree. The specific conditions under which flight training may be approved are contained in § 21.134.

(Authority: 38 U.S.C. 3115)

(i) *Additional consideration.* The case manager will consider the veteran's preference for a particular training or rehabilitation facility but VA has final responsibility for selection of the facility.

(Authority: 38 U.S.C. 3115)

[49 FR 40814, Oct. 18, 1984; 50 FR 9622, Mar. 11, 1985, as amended at 53 FR 50958, Dec. 19, 1988; 55 FR 42187, Oct. 18, 1990; 62 FR 17709, Apr. 11, 1997]

### § 21.296 Selecting a training establishment for on-job training.

(a) *Additional criteria for selecting a training establishment.* In addition to meeting all of the requirements of § 21.294 the training establishment must:

(1) Sign an agreement to provide on-job training to disabled veterans;

(2) Provide continuous training for each veteran without interruption except for normal holidays and vacation periods;

(3) Provide daytime training for the veteran except when the veteran cannot obtain necessary on-job or related

training during the working hours of the day;

(4) Modify the program when necessary to compensate for the limitations resulting from the veteran's disability or needs;

(5) Organize training into definite steps or units which will result in progressive training;

(6) Encourage rapid progress of each veteran rather than limit the progress of the individual to the progress of the group;

(7) Not, during the period of training, use the veteran on production activities beyond the point of efficient training;

(8) Agree to pay the veteran during training (except as provided in paragraph (b) of this section) a salary or wage rate;

(i) Commensurate with the value of the veteran's productive labor,

(ii) Not less than that prescribed by the Fair Labor Standards Act of 1938, as amended, and

(iii) Not less than that customarily paid to nonveteran-trainees in the same or similar training situation;

(9) Agree to provide the veteran with employment at the end of the training program, provided the veteran's conduct and progress have been satisfactory; and

(10) Agree to furnish VA a statement in writing showing wages, compensation, and other income paid directly or indirectly to each veteran in training under Chapter 31 during the month.

(Authority: 38 U.S.C. 3108(c), 3115)

(b) *On-job training at subminimum wage rates.* A subminimum hourly wage rate for handicapped workers may be considered where necessary in order to prevent curtailment of opportunities for employment. Payment at the subminimum rate must be approved by the Wage and Hour Division of the Department of Labor.

(Authority: 38 U.S.C. 3115)

[49 FR 40814, Oct. 18, 1984; 50 FR 9622, Mar. 11, 1985]

### § 21.298 Selecting a farm.

(a) *Control of the farm—farm operator.* A farm selected for farm cooperative training must be under the control of

## Department of Veterans Affairs

## § 21.299

the veteran by ownership, lease or other written tenure arrangement. If the veteran does not own the farm, the lease or other written agreement shall:

(1) Afford the veteran control of the farm at least until the end of his or her course;

(2) Allow the veteran's control to be such that he or she is able:

(i) To carry out the provisions of the training program; and

(ii) To operate the farm in accordance with the farm and home plan developed by the case manager and the veteran in collaboration with the instructor, and when appropriate, the landowner or lessor;

(3) Permit instruction in the planning, management, and operation of farming enterprise in the veteran's farm and home plan;

(4) At least by the end of the necessary minimum period of training, assure the veteran a reasonably satisfactory living under normal economic conditions;

(5) Provide for the necessary buildings and equipment to enable the veteran to satisfactorily begin pursuit of the course of farm cooperative training;

(6) Provide for resources which give reasonable promise that any additional items required for the pursuit of the course, including livestock, will be available as they become necessary;

(7) Provide for capital improvements to be made which are necessary for carrying out the farm and home plan, with the veteran furnishing no greater portion of the costs than the benefits accruing to the veteran warrant; and

(8) Provide for the landowner or leasor to share the costs of improved practices put into effect in proportion to the returns he or she will receive from such practices.

(b) *Farms on which more than one person trains—farm operator.* If a veteran in training is a partner of another person or if more than one person is involved in operating the farm, the farm shall be of such size and character that the farm:

(1) Together with the instruction part of the course will occupy the full time of the veteran; and

(2) Meets all requirements of paragraph (a) of this section.

(c) *Selecting a farm—farm manager.* The farm on which a veteran trains to become a farm manager shall be of such size and character that, together with the group instruction part of the course the farm:

(1) Will occupy the full time of the veteran;

(2) Will permit instruction in all aspects of the management and operation of a farm of the type for which the veteran is being trained; and

(3) Meets the requirements of paragraph (a) of this section.

(d) *Employer agreement.* VA may approve a farm on which a veteran is to train to become a farm manager only if the employer-trainer agrees:

(1) To instruct the veteran in various aspects of farm management in accordance with the individual's plan;

(2) To pay the veteran for each successive period of training a salary or wage rate:

(i) Commensurate with the value of the veteran's productive labor; and

(ii) Not less than that customarily paid to a nonveteran trainee in the same or similar training situation in that community; and

(3) To employ the veteran as a manager of the farm on which he or she is being trained if his or her conduct and progress remain satisfactory, or assure that the veteran will be employed as manager of a specified comparable farm.

(Authority: 38 U.S.C. 3115)

[49 FR 40814, Oct. 18, 1984; 50 FR 9622, Mar. 11, 1985]

### **§ 21.299 Use of Government facilities for on-job training or work experience at no or nominal pay.**

(a) *Types of facilities which may be used to provide training.* Notwithstanding any other provision of regulations governing chapter 31, the facilities of any agency of the United States or of any State or local government receiving Federal financial assistance may be used to provide training or work experience at no or nominal pay as all or part of the veteran's program of vocational training under §§ 21.123, 21.294, and 21.296 of this part. The counseling psychologist and case manager must determine that the training work experience is necessary to accomplish